

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

(1) REINALDO LOZANO,

Plaintiff,

v.

(1) GOLDEN RULE INSURANCE
COMPANY,

Defendant.

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C.A. No. CIV-15-1230-HE

NOTICE OF REMOVAL

Defendant, for purposes only of removing this cause to the United States District Court for the Western District of Oklahoma, states:

1. **State Court Action.** This is an action filed by Plaintiff on October 13, 2015 in the District Court of Canadian County, State of Oklahoma, being numbered Case No. CJ-2015-575 on the docket of said court and essentially being a suit by Plaintiff to recover benefits under a medical insurance policy.

2. **Diversity of Citizenship.** This action is removable under 28 U.S.C. §§ 1332, 1441 and 1446 inasmuch as the amount in controversy exceeds \$75,000.00 and is between parties with diverse citizenship. Plaintiff is a citizen of Oklahoma and a resident of El Reno, Canadian County, Oklahoma (*see* Petition, Ex. 1, ¶ 1). Defendant is an Indiana corporation with its principal place of business in Indianapolis, Indiana (*see* Declaration, Ex. 2). Therefore, Plaintiff is a citizen of Oklahoma, and Defendant is a citizen of Indiana for removal and diversity purposes. There is complete diversity of citizenship between Plaintiff and Defendant at the time of filing suit and at the time of

removal. Plaintiff's petition specifically alleges damages in excess of \$75,000.00 (Petition, Ex. 1, ¶ 29 and prayer). Plaintiff's petition also seeks to recover attorneys' fees and equitable relief, which must also be considered in determining the amount in controversy. *See Justice v. Atchison, Topeka and Santa Fe Ry. Co.*, 927 F.2d 503 (10th Cir. 1991); *see also In re General Motors Corp.*, 2005 WL 1606445, at *4, n. 8 (W.D. Okla. July 6, 2005). This Court therefore has original jurisdiction pursuant to 28 U.S.C. § 1332, and Defendant has shown by a preponderance of the evidence that the amount in controversy exceeds \$75,000.00, exclusive of interest and costs. This action is wholly of a civil nature.

3. **Removal is Timely.** Defendant was served with process on October 16, 2015. Therefore, removal is timely under 28 U.S.C. § 1446(b).

4. **State Court Documents Attached.** Attached hereto are copies of all process, pleadings, and orders served on Defendant in the state court action, including a copy of the state court docket sheet. [See Exhibits "1, 3-5"]

5. **Notice.** Defendant will give notice of filing of the Notice of Removal to all parties of record pursuant to 28 U.S.C. § 1446(d) and will file with the state court a notice of filing this Notice of Removal.

6. **Prayer.** Wherefore, Defendant prays that the United States District Court for the Western District of Oklahoma accept this Notice of Removal, that it assume jurisdiction of this cause, that it issue such further orders and processes as may be necessary to bring before it all parties necessary for the trial hereof, and that it grant such other and further relief as may be necessary.

Dated: November 4, 2015

Respectfully submitted,

By: s/Christopher A. Barrow

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ATTORNEYS FOR DEFENDANT

Certificate of Service I hereby certify that on this 4th day of November, 2015, I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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I further certify that on the 4th day of November, 2015, I served a true and correct copy of the above and foregoing instrument by first class mail, with proper postage fully prepaid thereon, on the following, who is/are not (a) registered participant(s) of the ECF System:

No manual recipients

s/Christopher A. Barrow
Christopher A. Barrow